

# Office of Education Improvement & Innovation



Q & A from August 30, 2011 Webinar for LEA District Staff on Choice/Transfer  
and SES Implementation

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**1) Q: Is choice, under NCLB, an option for all enrolled students in Title I buildings Identified for Improvement, Corrective Action, or Restructuring, or only those targeted for Title I assistance?**

The following is from the USED publication: *Public School Choice Non-Regulatory Guidance*, January 14, 2009 (page 8).

**C-1. Which students are eligible to change schools under the public school choice provisions?**

All students enrolled in Title I schools identified for school improvement, corrective action, or restructuring are eligible to transfer to another public school in the LEA that is not so identified. This requirement applies whether the school in which a student is enrolled administers Title I as a schoolwide program [Section 1114] or as a targeted assistance program [Section 1115].

In the case of a school that operates a targeted assistance program, all students in the school, not just those receiving Title I services, must have the opportunity to change schools [Section 1116(b)(1)(E); 34 C.F.R. §200.44(a)(1)].

**2) Q: What kind of information should be given to newly enrolling students (about AYP Identification & Choice)?**

The following is from the USED publication: *Public School Choice Non-Regulatory Guidance*, January 14, 2009 (page 8).

**C-2. Are students who plan to attend but are not yet enrolled in a school identified for school improvement, corrective action, or restructuring eligible to take advantage of the public school choice provisions?**

*The statute requires that public school choice be made available to all students enrolled in schools identified for school improvement, corrective action, or restructuring, but does not define “enrollment.” Therefore, the answer to this question depends on how SEAs and LEAs define “enrollment” and how they determine when a student is officially enrolled in a school. The Department believes, however, that students planning to enter a school for the first time, such as entering kindergartners, or students moving from*

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elementary to middle school, or those who have just moved into the attendance area served by a Title I school, should have the same opportunity to exercise choice as students already enrolled in the school. *Italics added by MDE.*

The district shall determine its own enrollment policy and how it applies to students who were not enrolled in the school in the prior school year.

**3) Q: As a charter located within the boundaries of a larger school district, the charter school provides its own transportation for its students. If students opt to transfer to a school in the traditional district, and since that district provides transportation, is the charter school relieved of that obligation?**

The charter school is obligated to provide transportation for students opting to transfer to another public school that is not Identified for Improvement, Corrective Action, or Restructuring. Federal law permits any LEA to make alternative arrangements for provision of transportation, such as reimbursing parents for the cost of transporting students or using city transportation, though this is among the least encouraged methods of providing transportation. If a student chooses to transfer back to his/her district of residence, the charter school does not have to pay for transportation costs.

**4) Q: If a student is brand new to a district, how long does the student have to attend that district (school) before they are eligible for school of choice?**

Please see response to Question 2, above.

**5) Q: Can we use the set aside money to pay the building coordinator of SES?**

No. Districts should consult with their MDE Office of Field Services consultant regarding whether any portion of the building/district coordinators' time may be paid for with Title I funds which are not part of the 20% setaside.

**6) Q: Can we pay for software to manage the program out of the setaside or parent involvement budget?**

No. From the USED document, *Supplemental Non-Regulatory Guidance*, January 14, 2009 (page 42, K-1): In addition to paying for choice-related transportation and

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SES, an LEA may spend up to 1 percent of its 20 percent obligation on parent outreach and assistance [34 C.F.R. §200.48(a)(2)(iii)(C)].

**K-21. What costs for parent outreach and assistance may an LEA count toward meeting its 20 percent obligation?**

An LEA is in the best position to determine the most effective means of providing outreach and assistance to parents of eligible students, and should use the flexibility provided by 34 C.F.R. §200.48(a)(2)(iii)(C) to make it easier to finance the provision of outreach and assistance to parents to help them take advantage of public school choice and SES. For example, an LEA might count toward meeting its 20 percent obligation the costs of parent notification letters; communication to parents through the media, Internet, and community partners; displaying information on the LEA's Web site; and parent fairs held by the LEA (page 49).

MDE requires that costs must be directly associated with the activities necessary to engage and inform parents, as articulated above in K-21 of the *Supplemental Educational Services Non-Regulatory Guidance, January 14, 2009*, document.

**7) Q: Can districts and schools limit dissemination of SES applications to parents? Our schools have had problems with multiple providers signing up students and recruiting students who are already signed up. Parents often get confused about which provider they have signed up with, or "switch" when they aren't contacted within a certain time frame. Does anyone have suggestions to prevent that type of chaos and predatory marketing?**

Districts and school may not limit their dissemination of SES application or enrollment forms only to parents. Approved SES providers must have access to the district and school enrollment forms for the purposes of student/parent recruitment. To prohibit distribution of the applications to providers would limit parent and student access to providers and SES.

School and district management of the SES enrollment process is admittedly labor intensive and complicated. Districts are encouraged to implement written policy/procedures for student enrollment in SES, and those procedures may limit whether parents may change providers and/or how frequently they are allowed to do so. Districts may certainly request justification from the parents as to why the change is necessary. Districts are encouraged to remain flexible and to implement

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written policy/procedures which are disseminated to SES providers and parents alike, and which are consistently applied by the district.

**8) Q): Does MDE have a good example of a contract with providers regarding invoicing?**

MDE has a sample contract which is part of the *District Guidelines for Supplemental Educational Services, August 2011*, a manual for school districts, which is available on the MDE SES website at: [www.michigan.gov/mde-ses](http://www.michigan.gov/mde-ses)

MDE has not been effective in obtaining contract templates from districts that must implement SES services. One of the webinar participants noted that their district has "borrowed" several contracts from SES providers and modified the contract to the district's requirements. MDE urges that before implementing any contract template that districts seek legal counsel and review of proposed documents.

**9) Q: May the district require meeting attendance and a signed contract from providers before inviting them to marketing activities or otherwise do business with the district SES program?**

The district should have processes in place for advising SES providers of district requirements for contracts, invoice and billing documentation, deadlines and procedures. SES providers should be given ample time to plan for and attend a meeting, to provide the district with any required documentation, e.g. copies of insurance information, criminal background checks on tutors and other staff responsible for SES, copies of health and safety certificates, and to submit contracts and documents to the district. In turn, parents must be provided at least 30 days to select providers and submit SES applications/enrollment forms to the district. The processes used by the district should be in writing and must be applied equally to all SES providers. Documentation required from SES providers should be similar to that required of other like vendors/contractors. Districts must ensure that they do not put barriers in place that limit or exclude SES providers, approved by MDE to serve the district, from serving eligible students in buildings required to offer SES.

**10) Q: Can MDE provide a couple of examples of exemplary districts that have posted SES/Choice information on their website?**

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No. MDE has not documented the quality and completeness of information posted on district websites which might be the basis for citing an exemplary model. A review of district websites by MDE earlier this year found that most districts did not post all of the required information on the websites. In its technical assistance, MDE has put additional emphasis upon the districts' need to comply with the federal requirements for posting information about both Choice/Transfer and SES. MDE will monitor district websites later this year to document compliance and identify districts that have demonstrated compliance, and target technical assistance to those districts where information is incomplete.

**11) Q: Please explain how students qualify for SES based on Free and Reduced lunch qualifications using the Title I set-aside? This is confusing because districts are offering other tutoring services based on financial status not achievement deficits. Title I funds are generated by Free and Reduced meal counts but are required to be spent only on students who show non-proficiency in core content areas; this seems like a contradiction.**

The federal and state requirements are clearly articulated as to eligibility for SES services. The following is from the *Supplemental Educational Services Non-Regulatory Guidance, January 14, 2009* (pages 25-26).

**F-1. Who is eligible to receive SES?**

All students from low-income families who attend a Title I school that is in its second year of school improvement, in corrective action, or in restructuring are eligible to receive SES. Eligibility is not dependent on whether a student is a member of a subgroup that did not make AYP, or whether the student is in a grade that takes the statewide assessment required by Section 1111 of the ESEA.

**F-2. How does an LEA determine eligibility for SES in schoolwide programs and targeted assistance programs?**

Whether a school implements either a Title I schoolwide program or a targeted assistance program, if the school is identified as in its second year of school improvement, corrective action, or restructuring, all students from low-income families attending the school are eligible for SES. In other words, in a targeted assistance school, eligibility does not depend on whether the student is receiving Title I services. Note that in a

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schoolwide program, although all students are eligible for Title I services, only students from low-income families are eligible for SES.

#### **F-4. What data must an LEA use to identify low-income students?**

For the purposes of determining eligibility for SES, an LEA must determine family income on the same basis that the LEA uses to make allocations to schools under Title I, Part A [Section 1116(e)(12)(A); 34 C.F.R. §200.45(b)].

#### **F-5. May an LEA use information from the National School Lunch Program (NSLP) to determine student eligibility for SES?**

The law specifically requires an LEA to use the same data to determine eligibility for SES that it uses for making within-district Title I, Part A allocations to schools; historically, most LEAs use school lunch data for that purpose...

The MDE *District Guidelines for Supplemental Educational Services, August 2011*, page 7, summarizes the above and states more plainly:

#### **11. Definition of Eligible Students**

Eligible students are identified by two criteria: (1) students must be attending a Title I school that is in its third year (Phase 2) of improvement or greater and (2) students must be eligible for free or reduced lunch. LEAs should carefully consider the methods they use to determine which students are eligible in order that the numbers reported to the LEA are as accurate as possible.

**Note: To reiterate, students attending the Title I school in Adequate Yearly Progress (AYP) Phase 2 or higher qualify for SES if they are eligible for free or reduced lunch; whether or not the student actually receives free or reduced lunch does not affect his or her qualification to receive SES.**

**Eligibility for SES is not determined by academic achievement.** SES must be offered to all students that meet the two criteria above (attending a Title I school in AYP Phase 2 or higher and in low income status) regardless of achievement level. LEAs may not add an additional criterion of low academic achievement.

The only instance where academic achievement affects SES enrollment is when more eligible students have applied for SES than can be served with the 20% set-aside (demand



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exceeds funding). **This determination may not be made until all eligible students have been offered the opportunity to enroll in services.** In such an instance, the LEA then must prioritize by greatest academic need. Students who demonstrate the greatest academic need must be provided services first.

12) Q: **What is the effect of a school or district's approved participation in the Community Eligibility Option (CEO) of the National School Lunch Program upon SES eligibility? If all student in a building may receive free meals under the CEO, and that building is required to offer SES, are all students in the building eligible to receive SES?**

MDE has **not** made a determination that a building's participation in CEO will result in the expansion of eligibility for SES for all students in the Title I participating school that has been Identified for Improvement, Correction, or Restructuring. Districts and buildings should continue to determine eligibility of students for SES as they have in past school years—based upon actual eligibility for free or reduced lunch. MDE will provide clarifying information about the impact of the CEO, if any, when a determination has been made.

13) Q: **Does the school or district have responsibility for providing transportation services for SES? Must the district contract with SES providers and transport students to offsite SES locations?**

No. Districts and buildings do not have responsibility for transporting students in order for the eligible students in a Title I building to participate in SES services. Further, there is nothing which obligates the district or school to provide transportation services under contract to a SES provider. If a district wished to contract with a SES provider to transport students to offsite (non-school building locations) it is free to do so; however, the district is not required to provide contracted services. MDE approved SES providers cannot offer transportation services unless they have been approved by MDE to provide transportation. Information about whether the provider is approved to offer transportation may be found in the SES Provider List disseminated to districts as an Excel Spreadsheet.

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